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U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GABI MORELIA SANTOS-CALDERON; D. J. P.-S., Petitioners, v. TODD BLANCHE, Attorney General, Respondent.	No. 25-5669 Agency Nos. A246-951-330 A246-951-331 MEMORANDUM[*]

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted October 29, 2026[**]
Seattle, Washington

Before: CHRISTEN and MILLER, Circuit Judges, and SYKES, District Judge.[***]

Gabi Morelia Santos-Calderon and her minor son D. J. P.-S., natives and citizens of Honduras, petition for review of a decision of the Board of Immigration

[*] This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

[**] The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

[***] The Honorable Sunshine Suzanne Sykes, United States District Judge for the Central District of California, sitting by designation.

Appeals dismissing their appeal from an immigration judge's order denying their applications for asylum, withholding of removal, and protection under the Convention Against Torture (CAT). We have jurisdiction under 8 U.S.C. § 1252, and we deny the petition.

Our review is limited to the Board's decision except where the immigration judge's opinion is expressly adopted. *Plancarte Sauceda v. Garland*, 23 F.4th 824, 831 (9th Cir. 2022). We review the agency's legal conclusions de novo and its factual findings for substantial evidence. *Conde Quevedo v. Barr*, 947 F.3d 1238, 1241 (9th Cir. 2020). Although the ultimate question of whether a particular social group (PSG) is cognizable is a question of law reviewed de novo, questions regarding particularity and social distinction involve factual issues reviewed for substantial evidence. *See id.* Under the substantial-evidence standard, we must uphold the agency's findings "unless any reasonable adjudicator would be compelled to conclude to the contrary." 8 U.S.C. § 1252(b)(4)(B).

1. Substantial evidence supports the agency's determination that Santos-Calderon did not establish that any past or feared persecution in Honduras was or would be on account of her membership in a PSG. Both asylum and withholding of removal require Santos-Calderon to show that her past or feared persecution bears a nexus to a protected ground. *Garcia v. Wilkinson*, 988 F.3d 1136, 1143, 1146–47 (9th Cir. 2021). For asylum, Santos-Calderon's membership in a PSG must be "one

central reason," and for withholding of removal, "a reason," for the persecution. *Barajas-Romero v. Lynch*, 846 F.3d 351, 358 (9th Cir. 2017) (quoting 8 U.S.C. §§ 1158(b)(1)(B)(i), 1231(b)(3)(C)) (emphasis omitted).

To be cognizable, a PSG must be "(1) composed of members who share a common immutable characteristic, (2) defined with particularity, and (3) socially distinct within the society in question." *Conde Quevedo*, 947 F.3d at 1242 (quoting *Matter of M-E-V-G-*, 26 I. & N. Dec. 227, 237 (B.I.A. 2014)). Santos-Calderon argues that she has established a well-founded fear of future persecution based on her membership in two groups: "individuals who witness murders in Honduras" and "Hondurans who witness criminal activity." The record does not compel the conclusion that either proposed PSG is socially distinct.

Social distinction requires "evidence showing that society in general perceives, considers, or recognizes persons sharing the particular characteristic to be a group." *Villegas Sanchez v. Garland*, 990 F.3d 1173, 1180–81 (9th Cir. 2021) (quoting *Matter of W-G-R-*, 26 I. & N. Dec. 208, 217 (B.I.A. 2014)). "[T]he persecutors' perception is not itself enough to make a group socially distinct, and persecutory conduct alone cannot define a group." *Cordoba v. Barr*, 962 F.3d 479, 483 (9th Cir. 2020) (quoting *Matter of M-E-V-G-*, 26 I. & N. Dec. at 242). Instead, social distinction is "determined by the perception of the society in question." *Rios*

v. Lynch, 807 F.3d 1123, 1127 (9th Cir. 2015) (quoting *Matter of M-E-V-G-*, 26 I. & N. Dec. at 242).

Santos-Calderon argues that the man she saw committing a crime "was aware of her status as a witness to his crime" and threatened her on that basis. But this "shows only individual retaliation, not persecution on account of membership in a distinct social group." *Conde Quevedo*, 947 F.3d at 1243 (citing *Madrigal v. Holder*, 716 F.3d 499, 506 (9th Cir. 2013)). Santos-Calderon did not testify in court, report the crime to the police, or otherwise engage in any activity that made her "recognizable by other members of the community." *Cordoba*, 962 F.3d at 482 (quoting *Reyes v. Lynch*, 842 F.3d 1125, 1136 (9th Cir. 2016)). While she points out that the Honduran criminal justice system has problems with "witness intimidation" and an ineffective witness protection program, that evidence at most suggests that witnesses who testify in court may qualify as a distinct social group. There is no evidence in the record suggesting that Honduran society recognizes individuals who are merely present when a crime occurs as a distinct social group.

Because the lack of a cognizable PSG is dispositive of Santos-Calderon's claims for asylum and withholding of removal, we do not reach her arguments about past persecution or the inability or unwillingness of the Honduran government to control her persecutor. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam).

2. Substantial evidence supports the agency's denial of CAT relief. To qualify for CAT relief, Santos-Calderon must establish that it is more likely than not that "she would be tortured if removed to the proposed country of removal." 8 C.F.R. § 1208.16(c)(2). Although the country-conditions evidence demonstrates that Honduras has problems with crime and corruption, the agency permissibly concluded that this evidence does not establish that Santos-Calderon faces "a particularized, ongoing risk of future torture" if removed to Honduras. *Tzompantzi-Salazar v. Garland*, 32 F.4th 696, 706–07 (9th Cir. 2022).

We reject Santos-Calderon's contention that the agency failed to meaningfully consider all the evidence. The immigration judge's order stated that he considered "the evidence in the record, separately and together with Respondents['] individualized experiences, and the aggregate risk they fac[e] from all possible sources of torture." Santos-Calderon does not identify any probative or potentially dispositive evidence that the agency "ignored or misstated." *Cruz v. Bondi*, 146 F.4th 730, 740 (9th Cir. 2025). Neither the country-conditions evidence nor the corroborating affidavits establish a "particularized, ongoing risk of future torture." *Tzompantzi-Salazar*, 32 F.4th at 707. Because the agency need not "individually identify and discuss every piece of evidence in the record," any omission was not error. *Hernandez v. Garland*, 52 F.4th 757, 770 (9th Cir. 2022).

The motion to stay removal (Dkt. No. 3) is denied.

PETITION DENIED.